

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRIAN WHITE,

Petitioner,

CASE NO. 2:16-cv-12910
HON. GEORGE CARAM STEEH

v.

JEFFREY WOODS,

Respondent.

_____ /

ORDER FINDING GOOD CAUSE TO WARRANT TIME EXTENSION

On May 2, 2017, this court denied petitioner Brian White's habeas petition and entered judgment that same date. Any notice of appeal was due to be filed on or before June 1, 2017. White filed his untimely notice of appeal on June 12, 2017. However, Federal Rule of Appellate Procedure 4(a)(5) allows a district court to extend the appeal period if two requirements are satisfied: (1) the party seeking the extension moves for the extension "no later than 30 days" after the expiration of the appeal period, and (2) "that party shows excusable neglect or good cause." Fed. R. App. P. 4(a)(5)(A)(i)-(ii). Because the notice of appeal was filed within the thirty-day period for a Rule 4(a)(5) motion, the Sixth Circuit remanded

the matter to this court for the limited purpose of determining whether White had demonstrated excusable neglect or good cause for his untimeliness.

“Excusable neglect has been held to be a strict standard which is met only in extraordinary cases.” *Nicholson v. City of Warren*, 467 F.3d 525, 526–27 (6th Cir. 2006) (citing *Marsh v. Richardson*, 873 F.2d 129, 130 (6th Cir.1989)). “Good cause will be found where forces beyond the control of the appellant prevented [him] from filing a timely notice of appeal.” *Id.* at 526. In this case, White argues that timely filing was impossible and beyond his control because he was assisted in his legal work by the Prison’s Legal Writer Program which assigned a Legal Writer to prepare his pleading and that his Legal Writer did not put him on call to pick up his pleading until June 12, 2017, and that he mailed the notice of appeal that same date. Given these circumstances, the court finds that White has demonstrated good cause for his dilatoriness sufficient to warrant an extension of time for filing a notice of appeal.

IT IS SO ORDERED.

Dated: August 17, 2017

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on August 17, 2017, by electronic and/or ordinary mail and also on Brian White #450311, Chippewa Correctional Facility, 4269 W. M-80, Kincheloe, MI 49784.

s/Marcia Beauchemin
Deputy Clerk